

Nova Scotia Human Rights Commission
Annual Accountability Report for the Fiscal Year 2009-2010

July 23, 2010

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Nova Scotia Human Rights Commission

Accountability Statement

The accountability report of the Nova Scotia Human Rights Commission (NSHRC) for the year ending March 31, 2010 is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the NSHRC's business plan information for the fiscal year 2009-2010. The reporting of outcomes necessarily includes estimates, judgments and opinions by NSHRC management.

We acknowledge that this accountability report is the responsibility of NSHRC management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the NSHRC's business plan for the year.

Hon. Ross Landry

Minister Responsible for the *Human Rights Act*

Krista Daley

Director and CEO

Message From the Director and CEO

I am pleased to share with you the Accountability Report of the Nova Scotia Human Rights Commission (NSHRC) for 2009-2010. This report provides a summary of the NSHRC's accomplishments in fulfilling its commitments under the 2009-2010 business plan.

As the lead agency for human rights in Nova Scotia, the NSHRC strives toward excellence in its promotion and protection of human rights in the province. A goal of continuous improvement guides the work as the NSHRC seeks to provide the best service possible to Nova Scotians while making efficient use of resources. I am particularly pleased this year to advise that the NSHRC has made significant progress in reducing its reliance on external professional services.

During 2008 -2009, the NSHRC embarked on a new vision and three-year strategic plan. As part of its plan, six strategic goals were identified. 2009-2010 was the first full year under this new direction and it was reflected in the priorities set in the 2009-2010 business plan. Overall, it has been clear that the direction set in 2008-2009 was the right one and it will be sustained. In keeping with the overall direction, the NSHRC no longer refers to its "complaint resolution process" but refers to this part of its mandate as the "dispute resolution process" to reflect the priority given to resolving disputes before they become formalized complaints.

As in the previous years, this was another year of ongoing transition for the NSHRC with new senior managers hired and others departing. The human rights landscape in Canada and Nova Scotia also continued to evolve and to change directions. The priorities of the NSHRC had to shift accordingly from time-to-time to accommodate these changes as well as the financial situation of the NSHRC.

There have been many accomplishments and challenges over the past fiscal year and these are highlighted in this report. Of particular note, the NSHRC continues to focus on efficiency of process. The volume of disputes resolved and the volume of training requests fulfilled was very high this year. Unfortunately, longer term initiatives, such as engaging all Nova Scotians in discussions on human rights issues, that support prevention of discrimination and societal change moved more slowly due to human and financial pressures.

My sincere thanks go to the staff, management and Commissioners for their commitment and hard work to ensure the best possible service to the public throughout this period.

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We encourage you to review this report and learn more about the work of the NSHRC by exploring our website at www.gov.ns.ca/humanrights. We also welcome any suggestions or feedback you have on this report or more generally on the NSHRC's work.

Sincerely,

Krista Daley
Director and CEO

Nova Scotia Human Rights Commission

I. Introduction

This document reports on the goals, priorities and performance measures identified in the NSHRC's 2009-2010 business plan. The business plan is available on the NSHRC's website at <http://gov.ns.ca/humanrights/pubs>.

Throughout the year, the NSHRC maintained a diverse staff and continued its commitment to a positive and professional working environment. The NSHRC has a staff complement of 24 people working in three regions of the province: Halifax, Sydney, and Digby. There are three management positions, all located in the Halifax office.

It is important to note that there were a number of challenges and events that shaped the work of the NSHRC during the fiscal year. These included: changes to the *Human Rights Act*, Commission meeting schedule, changes in NSHRC programs, staffing changes and financial situation.

Changes to the Act

On July 1st 2009, the *Act* was amended to eliminate mandatory retirement in the province. This has challenged the NSHRC to deal effectively with prior jurisprudence that had interpreted mandatory retirement more permissively.

Commission Meetings

Commission meetings were changed from one-day monthly meetings to two-day bi-monthly meetings. This change has reduced the cost of Commission meetings, has resulted in greater productivity and finalizations of disputes and has allowed Commissioners more time to reflect on strategic issues.

Major Program Changes

A review of the mediation program was initiated to make it more accessible as the preferred means for resolving disputes. Costs were reduced by implementing changes to the billable hours contract for roster mediators which substantially reduced the cost per mediation while not having a negative impact on the quality nor the efficiency of the program.

Workforce Planning Strategy

The staff talent management review was completed. The information is currently in use to support career opportunities for staff as well as for their professional development.

Staffing Changes

This year staffing changes occurred at all levels of the organization. A new position of in-house legal counsel was created and staffed. This has provided a more efficient use of resources and, of equal importance, it will allow the NSHRC to increase its capacity to be more proactive with respect to managing human rights law in Nova Scotia and to allow the NSHRC to be a leader in administrative justice in the province. At the same time, two long standing senior managers - Manager, Dispute Resolution and Project Manager - left the public service. These departures had an impact on the organization in the short-term which affected our ability to meet all of our commitments. Nonetheless, the recruitment process resulted in highly qualified managers being hired.

In addition, the intake analyst, who was mainly responsible for the initial screening and triage of files, left the NSHRC after many years of developing the program. This had an impact on some of the performance commitments.

Budget

The NSHRC faced a number of challenges in meeting its budget targets during 2009-2010 as a result of two complex Boards of Inquiry. A Board of Inquiry is the final stage in the processing of a human rights complaint and a Board of Inquiry (that is, a hearing process) is run by an independent, appointed Board of Inquiry Chair. The NSHRC pays all of the costs of the Board of Inquiry including room rental, transcription costs, travel expenses, and per diem fee for Board of Inquiry Chair. Nonetheless, the NSHRC has no control over the length and complexity of the process as this is within the control of the independent Board of Inquiry Chair. In this sense, it has no control over this budget expenditure although it is able to reduce the costs by, for example, renting cost effective space of the hearings. In this year, two long and complex Boards of Inquiry took place which strained the budget.

The NSHRC's actual expenditures were \$2,124,400 whereas the authority was \$2,144,000. There was a noted success in cost recovery in the amount of \$38,400 for the fiscal year whereas the forecast was for

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\$15,000. Most cost recovery was achieved through training fees. Other cost recovery was from legal costs awarded in successful litigation.

II. Progress and Accomplishments

In its 2009-2010 business plan, the NSHRC established six strategic goals under four new core business areas. What follows are highlights of the major initiatives undertaken to achieve the priorities set by the NSHRC in support of these goals. The performance measures for the core business areas are reported in Section IV.

The six strategic goals will be used to report on progress and accomplishments. The human resources and workforce planning strategy (as described in the 2009-2010 business plan) is also reported.

Strategic Goal 1. Continue to promote a workplace that is dynamic, embraces differences and fosters continuous learning.

- Diverse staff have been recruited and a number of students from diverse backgrounds worked with the NSHRC through the Career Starts Program, Dalhousie Schulich's School of Law Pro Bono program, summer placement program and from the School of Social Work, Master's Program.
- Staffing changes have been tracked such as staff departures and movement from casual or term positions to permanent positions.
- A talent management review was conducted, including succession planning for hard to fill positions and to retain diversity.
- New staff completed the Public Service Commission self-identification survey as well as an NSHRC self-identification survey.
- Staff promoted recycling and energy saving within the office by more efficient document processing and by sorting and streaming waste.
- The NSHRC also reported on occupational health and safety to the Public Service Commission.

Strategic Goal 2. Provide fair, easily accessible and cost effective services that are in accordance with the Nova Scotia Human Rights Act.

- Staff and students assisted with phone inquiries to enable intake staff to assess files more quickly. However, due to staff departures we were only able to minimally reduce processing times.

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- The per-case costs for mediation and Boards of Inquiry were reduced.
- The Director and CEO continued to make decisions under s.29 (4) of the *Act* (amendments that came into effect in 2008).
- As part of a mediation program review, settlement models from other jurisdictions were examined.
- Plain language settlement agreements were created.
- New mediator and Board of Inquiry chair rosters were established.
- Mandatory retirement case law was reviewed and policy implemented on cases currently at NSHRC.

Strategic Goal 3. Engage with racially visible people, women, Aboriginal people and persons with disabilities, to ensure their realities are reflected and celebrated in the work of the Commission.

- Engaged with students and volunteers from diverse backgrounds and disciplines.
- Established a diverse Advisory Panel to provide advice on the Employment Equity Partnership initiative.
- Research was conducted by a Mi'kmaq social work student on a pilot healing circle model to be used in future disputes involving Aboriginal people.
- Groups were engaged through a number of activities: Events for International Day for Persons with Disabilities (December 3rd), International Human Rights Day (December 10th) was held at Indian Brook First Nations reserve and the International Day for the Elimination of Racism (March 21st) was held in Halifax.
- Meetings were held with the Advisory Committee for the Implementation of the Aboriginal Framework. Also meetings were held with the Assembly of Nova Scotia Chiefs.
- Training was provided to the Confederacy of Mainland Mi'Kmaq on the upcoming repeal of section 67 of the *Canadian Human Rights Act*.
- The NSHRC worked with the Congress of Aboriginal Peoples and Nova Scotia Native Council on consultation about the upcoming repeal of section 67.
- Strategies were developed to get funding for designated aboriginal positions.

Strategic Goal 4. Strengthen existing partnerships while collaborating with organizations which share similar values to reduce systemic discrimination, and strengthen the ability of individuals and communities to address issues of discrimination.

- The Employment Equity Partnership initiative was launched in May 2009.

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- A survey of 1200 organizations was conducted as part of the Employment Equity Partnership initiative. There were 660 responses received. The Francophone business community was also engaged.
- The strong existing relationship between the NSHRC and the Disabled Persons Commission continued through various collaborative activities. In particular, the second annual symposium for inclusion in education and employment was held on December 3, 2009 with resulting recommendations for action. The planning for this symposium also involved the Collaborative Partnership Network.
- The request for proposal for the third phase of the NSHRC's mental health legal advocate training project was issued and the Canadian Mental Health Association received the contract. Work began on this final phase. The NSHRC also participates on the advisory committee for this project.

Strategic Goal 5. Advise and assist the government of Nova Scotia in its goal of achieving equitable access to opportunities and services for every individual.

- Meetings were held with key government officials to inform them of NSHRC's work and assist them with policy direction.
- NSHRC staff participated on the Public Service Commission's Diversity Roundtable to highlight human rights issues and discuss equity plan outcomes.
- NSHRC reported on its Equity Plan and Progress Report to the Public Service Commission.
- Meetings were initiated with staff of external government agencies to exchange knowledge on common research and policy issues. In particular, a joint training session was held with the staff of Labour Standards Tribunal.
- NSHRC reported on its French Language Services Plan to the Office of Acadian Affairs.
- NSHRC liaised with the policy analyst of ¹Treasury and Policy Board on common areas of interest.
- NSHRC worked with the Canadian Human Rights Commission on the federal and provincial jurisdictional issues relating to Aboriginal law and created a protocol for handling these issues.
- NSHRC was asked by the Nova Scotia Rainbow Action Project to support their discussions with government about the health needs of transgendered Nova Scotians.

¹ As of July 2009, the Treasury Board became the Treasury Board Office and Office of Policy and Priorities

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- NSHRC is a member of the province-wide domestic violence coordinating committee to develop a strategy to address intimate partner violence.

Strategic Goal 6. Ensure people in all communities of Nova Scotia are engaged in meaningful discussion on human rights issues and diversity, to improve the lives of all Nova Scotians.

- A new NSHRC website was launched at www.gov.ns.ca/humanrights
- In order to improve public access, Board of Inquiry decisions were posted to a free internet-based legal research tool at www.canlii.org.
- Focus groups were held to begin work on a broad communications strategy for the NSHRC.

Human Resources and Workforce Planning Strategy

- Staff were supported in continuing education activities such as “lunch and learn” sessions and French language courses.
- Staff participated in professional development activities such as human rights events, community forums and other related activities.
- Staff completed professional development plans. This enables NSHRC to align staff interests with available opportunities.

III. Financial Results

N.S. Human Rights Commission		
	2009-2010 Estimate (\$ thousands)	2009-2010 Actual (\$ thousands)
Gross Program Expenses	2,144	2,124.4
Salaries and Employee Benefits	1,773	1,671.5
Funded Staff (FTEs)	24	22.2

IV. Performance Measures

The measures in this report come from the Commission's 2009-2010 business plan (refer to Schedule 2 Performance Measure Charts).

Core Business Area: Complaint Resolution Services (now referred to as Dispute Resolution Services)

Outcome: Access to a fair and effective process

Measures:

- a) Average amount of time it takes to finalize a case at the intake stage upon receipt of an Intake Questionnaire.
- b) Average amount of time it takes to finalize a settlement initiative (mediation) from point of referral to final approval of an agreement.
- c) Average amount of time it takes to complete settlement follow-up on a case (training, policy work, etc.).

What do these measures tell us?

- a) For the public to have confidence in the NSHRC's ability to resolve human rights disputes, the organization must be able to respond as quickly as possible when allegations are brought forward.
- b) When mediation is a viable option for resolving a dispute, it is important for the program to quickly seize the opportunity. This measure reflects the NSHRC's ability to respond in a timely way to clients.
- c) Implementing the settlement follow up (e.g. human rights education training for employers resulting from settlement agreement) efficiently and effectively within 11 months of receipt of request, provides closure for parties and aids in preventing further cases of discrimination.

Where are we now?

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- a) A review of cases at intake shows that the amount of time to finalize a case at the intake stage has remained stable despite the extended vacancy of a key position. The average amount of time to finalize a case at intake was 6 months.
- b) It took on average 5 months to finalize a settlement initiative from point of referral. This is better than the target that was set at 5.5 months for this fiscal year.
- c) The performance target to do settlement follow-up in 11 months in 2009-2010 was met.

Where do we want to be in the future?

- a) The target for 2010-2011 is to conclude intake stage in 4 months.
- b) The mediation program review is proposing that there will be use of Human Rights Officers as mediators to increase the capacity of the NSHRC to finalize disputes through settlement. This will shorten mediation time lines. Enforcement of strict timelines for roster mediators will also have a positive impact.
- c) The new approaches will continue in creating efficiencies in follow-up of settlements.

Core Business Area: Corporate Services

Outcome: Access to a fair and effective process (cost effective)

- Measures:**
- a) Reduction in average costs per mediation case.
 - b) Reduction in average costs per Board of Inquiry case.

What do these measures tell us?

- a) Creating cost-effective services allows a better allocation of resources to other areas of the NSHRC. Efficient expenditure of financial resources allows more parties to benefit.
- b) The cost of Boards of Inquiry is a significant portion of the NSHRC's budget. The cost of litigation processes is a factor to consider in access to justice. Reducing the cost is not only a better use of the financial resources of the NSHRC, but also a reflection of the nimbleness and flexibility required of an administrative tribunal. In future, the measure will be average cost per day of a Board of Inquiry since this is the only variable that can be controlled by the NSHRC.

Where are we now?

- a) Costs for roster mediators have been reduced by more than 40% per session. As well, increased use of staff in settling disputes has reduced overall costs. This was

accomplished by reducing the hourly rate of roster mediators, reducing the maximum number of billable hours and relying more on the in-house mediation coordinator.

- b) Fixed costs for Boards of Inquiry have been reduced because in-house legal counsel now perform many functions originally performed by external legal services. Due to two large Boards of Inquiry in 2009/2010, the overall Board of Inquiry budget was exceeded. The length of the inquiries and therefore their costs are difficult to predict or control.

Where do we want to be in the future?

- a) The NSHRC will implement mediation review project recommendations and enforce strict time lines for mediators for completing settlement agreements.
- b) Explore more cost-effective space for Board of Inquiry hearings and use oral recording systems rather than transcription services. Continue to settle more cases thereby reducing the number of Boards of Inquiry.

Core Business Area: Education, Training and Equity Partnership Agreements

Outcome: Better informed public about indicators and impact of discrimination

- Measures:**
- a) Increase the number of sustainable strategic partners.
 - b) Percentage of training and consultation requests accepted.

What do these measures tell us?

- a) Everyone is responsible for human rights in Nova Scotia - government, the NSHRC, employers, organizations and all Nova Scotians. The NSHRC is committed to promoting and protecting human rights through forging sustainable strategic partners. The more partners, the greater the likelihood of building capacity in the area of human rights. Specifically, employment situations account for 80% of the human rights disputes brought to the NSHRC. The NSHRC must play a role in helping employers examine their own work environments to work toward the creation of healthy and productive workplaces. We do this by partnering with them as appropriate.
- b) A key component of the NSHRC's mandate is to promote positive change and respect for inclusion and equality in the wider community. To influence behaviour at the societal level, the NSHRC must respond to training and education requests.

Where are we now?

- a) The NSHRC sustained existing partnerships and established new partnerships through special projects and the Employment Equity Partnership initiative. Strategic partnerships are sustainable and engaged agencies that share values similar to the NSHRC. The performance standard of 10 new partners has not been met for 2009-2010. This is in part due to staffing shortages but more importantly, because we have revised the definition of strategic partnerships to make it more long-term and sustainable.
- b) The NSHRC has seen a significant increase in voluntary requests for our public education (workshops, conference presentations, information sessions, display booths, etc.) We met our targets of an increase in consultation by 5% with employers for Human Rights Education (from 75% in the previous year to 80%) and an increase in training and workshops by 10% (from 60% in the previous to 70% of requests each year).

Where do we want to be in the future?

- a) Seek new members for the Partners for Human Rights working group who share similar values to the NSHRC. Get long term commitment for partners under the Employment Equity Partnership Project. Partner with agencies providing related information such as Labour Standards and Workforce Development. Continue to improve current partnership with the Disabled Persons Commission.
- b) Increase workshops in areas of discrimination other than employment (accommodation, service provision, not-for-profit organizations, etc.). Build capacity among diverse groups of people delivering customized workshops and education sessions with a human rights theme.